

February 2, 2011

Julius Genachowski  
Michael J. Copps  
Robert M. McDowell  
Mignon Clyburn  
Meredith Attwell Baker  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: Data Innovation Initiative, *Promoting Diversification of Ownership in the Broadcasting Services*, MB Docket 07-294, and *2010 Quadrennial Regulatory Review of the Commission's Broadcast Ownership Rule*, MB Docket No. 09-182

Dear Chairman Genachowski and Commissioners Copps, McDowell, Clyburn, and Baker:

As the Commission considers how to improve the agency's fact-based, data-driven decision-making at its February 8<sup>th</sup> meeting, the signers to this letter are writing to express concern over the Commission's lack of comprehensive, reliable, and searchable information concerning the extent of broadcast station ownership by minorities and women.

The undersigned are major civil rights, media reform organizations, public policy institutes, labor organizations, academics, and other organizations and individuals concerned about the lack of racial and gender diversity in media ownership. Despite the efforts of the FCC and many of these organizations and individuals over the past forty years, the levels of minority and female ownership remain abysmally low. Efforts to increase opportunities for minorities and women to own broadcast stations have been hindered by the lack of reliable, comprehensive data.

The Commission has long recognized that data on ownership by minorities and women is necessary. In 1998, it amended the Broadcast Ownership Form 323 to require the provision of information on race and gender. The Commission reasoned that the information was needed to "determine accurately the current state of minority and female ownership of broadcast facilities, to determine the need for measures designed to promote ownership by minorities and women, to chart the success of any such measures that the Commission may adopt, and to fulfill the Commission's statutory mandate under Section 257 of the 1996 Act and Section 309(j) of the Communications Act of 1934 to promote opportunities for small businesses and businesses owned by women and minorities in the broadcasting industry." *1998 Biennial Regulatory Review*, 13 FCC Rcd 23056, 23095 (1998).

During the 2006 Quadrennial proceedings on broadcast ownership rules, it was discovered that the minority and female ownership data collected by the Commission since 1998 was incomplete and that Commission's collection methods were so flawed as to render the data

virtually useless.<sup>1</sup> Thus, in December 2007, the FCC issued a Further Notice seeking comment on modifications to Form 323. *Promoting Diversification of Ownership*, 23 FCC Rcd 5922 (2008).

In May 2009, the FCC adopted improvements to the Form 323 data collection process. *Promoting Diversification of Ownership*, 24 FCC Rcd 5896, 5903-5910 (2009). It directed the staff to revise Form 323's electronic interface so that the ownership data "is incorporated into the database that is searchable, and can be aggregated and cross-referenced." *Id.* at 5908. It also set November 1, 2009, as the uniform filing date.

The Commission subsequently extended the filing date to December 15, 2009, because the Office of Management and Budget had not finished its review. After obtaining OMB clearance, the Commission set January 11, 2010, as the new filing date. However, the Media Bureau suspended that filing date after receiving complaints from the NAB and law firms representing broadcasters that they were experiencing problems submitting the information in a timely manner. Subsequently, the Bureau established July 8, 2010, as the filing deadline.

Media reports suggest that most broadcast stations filed the revised Form 323s by July 8, 2010. Some of these individual filings may be found in the Media Bureau's CDBS database. However, the Form 323 data is not yet available to the public in a searchable, aggregated, and cross-referenced format and the Media Bureau staff have been unable to say when the aggregated, searchable database will be available for public use.

Fourteen months have passed since the revised Form 323s were due to be filed. More than six months have passed since the revised Form 323s were actually filed. More than four years have passed since the problems with the earlier filing process were brought to the FCC's attention. Yet, the public still lacks meaningful access to the data in a searchable, aggregated, and cross-referenced format.

We agree that "[s]mart policies depend on quality data, and public data should be accessible to the public in meaningful ways using modern digital tools." News Release, FCC Launches Data Innovation Initiative, June 29, 2010. The data from the revised Form 323 is needed to reach informed decisions in several current FCC proceedings. For example, one of the issues in the 2010 Quadrennial Review of the broadcast ownership rules is the effect that the existing ownership limits have, or changes in such rules would have, on viewpoint diversity, including the views of minorities and women. The FCC's earlier 2002 Biennial review was remanded in part because of the FCC's failure to adequately address minority and female ownership. The data is also essential to evaluating the proposal from the Diversity Advisory

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<sup>1</sup> See, e.g., Comments of UCC et al., Docket 06-121 at 5 and App. A (Oct. 13, 2006) (discussing data problems identified in Carolyn Byerly, Questioning Media Access: Analysis of FCC Women and Minority Ownership Data (Sept. 2006)); Comments of Consumers Union, et al., Docket 06-121 at Study 11(S. Derek Turner and Mark Cooper, Out of the Picture: Minority & Female TV Station Ownership in the United States (Sept. 2006)); Arie Beresteanu and Paul B. Ellickson, "Minority and Female Ownership in Media Enterprises" (June 2007); "Media Ownership: Economic Factors Influence the Number of Media Outlets in Local Markets, While Ownership by Minorities and Women Appears Limited and Is Difficult to Assess," Report to the Chairman of the Subcommittee on Telecommunications and the Internet, Energy and Commerce Committee, House of Representatives, GAO-08-383 (Mar. 2008).

Committee to adopt an additional bidding credit for spectrum auctions, *see* Public Notice, GN Docket No. 10-244 (Dec. 2, 2010), and to evaluate the effectiveness of existing policies designed to foster opportunities for minorities and women, such as the bidding credit for new entrants.

Thus, we ask the Commission to promptly make the data on broadcast station ownership by minorities and women available to the public in a meaningful way.

Respectfully submitted,

***Organizations:***

Office of Communication of the United Church of Christ, Inc.  
NOW Foundation  
National Hispanic Media Coalition  
Rainbow-Push Coalition  
Benton Foundation  
Media Alliance  
Prometheus Radio Project  
Media Access Project  
Public Knowledge  
Communications Workers of America, AFL-CIO  
New America Foundation  
National Association of Broadcast Employees and Technicians-CWA, AFL-CIO  
The Newspaper Guild-CWA, AFL-CIO  
The Joint Center for Political and Economic Studies  
Free Press  
Future of Music Coalition  
Center for Creative Voices in Media  
The Transmission Project  
Broadband Institute of California  
Spectrum Evolution  
Chicago Media Action  
Access Humboldt  
Institute for Local Self-Reliance  
Center for Governmental Studies  
Media Equity Collaborative

***Individuals:***

Professor Angela Campbell  
*Georgetown Law*  
Henry Geller  
*Former General Counsel, Federal Communications Commission*  
Professor Philip Napoli  
*Fordham University, Donald McGannon Communications Research Center*  
Professor Allen S. Hammond  
*Santa Clara University School of Law*

Professor Carolyn Byerly  
*Howard Media Group, Howard University*

Professor Danilo Yanich  
*University of Delaware School of Communications*

Professor Pat Aufderheide  
*American University School of Communications*

Professor Kathryn Montgomery  
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Professor Matthew Hale  
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Professor Jerry Kang  
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Professor Leonard Baynes  
*St. John's University School of Law*

Professor Reggie Miles  
*Howard Media Group, Howard University*

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*Director & Producer of Broadcast Blue*

Professor Darrell M. Newton  
*Salisbury University Department of Communications*

Professor LaVonda Reed-Huff  
*Syracuse University School of Law*

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